

**United States Bankruptcy Court  
Central District of California  
Santa Ana  
Theodor Albert, Presiding  
Courtroom 5B Calendar**

**Wednesday, June 1, 2022**

**Hearing Room**

**5B**

10:00 AM

**8:00-00000**

**Chapter**

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Docket 0

**Tentative Ruling:**

- NONE LISTED -

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**8:22-10175 Rita Ramos Curiel**

**Chapter 11**

**#1.00 STATUS CONFERENCE RE: Chapter 11 Subchapter V Voluntary Petition  
Individual.  
(cont'd from 4-27-22)**

Docket 1

**Tentative Ruling:**

Tentative for 6/1/22:

Because of an impending relief of stay motion scheduled June 14, and at the request of the Trustee, continue to June 22 @ 10.

Appearance: suggested

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Tentative for 4/27/22:

The court requests a further explanation as to the debtor's proposal that the plan and disclosure be combined in a single document. If part of the plan is to be an extension of payments on liens, and most if not all income to fund is coming from operation of the tire store wholly owned by debtor, don't creditors and the court require some explanation/projections regarding future income and expense regarding feasibility question?

Set deadline for filing of plan about 30 days hence, possibly including a separate disclosure hearing.

Appearance: required

<b>Party Information</b>
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**Debtor(s):**

Rita Ramos Curiel

Represented By  
Matthew D. Resnik

**Trustee(s):**

Robert Paul Goe (TR)

Pro Se

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**Rita Ramos Curiel**

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**8:20-12963 World of Dance Tour Inc.**

**Chapter 11**

**#2.00** Application for Compensation of Fees and Expenses for Period: 1/1/2021 to 4/30/2022:

**KAHANA & FELD LLP, SPECIAL COUNSEL**

**FEE: \$63,090.00**

**EXPENSES: \$3,577.16**

Docket 231

**Tentative Ruling:**

Tentative for 6/1/22:  
Allow as prayed. Appearance: optional

<b>Party Information</b>
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**Debtor(s):**

World of Dance Tour Inc.

Represented By  
Fred Neufeld

**Trustee(s):**

Mark M Sharf (TR)

Pro Se

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**8:20-10958 Bradley Ray Fox**

**Chapter 11**

**#3.00** Trustee's Motion for Entry Of Orders: (1) Approving Compromise With Darcy Blasing; (2) Approving Compromise With Jennifer Fox French; (3) Authorizing The Trustee To Make Distributions To Secured, Priority, And Allowed Administrative Expense Claims; (4) Dismissing The Debtor's Chapter 11 Case; And (5) Granting Related Relief  
**(cont'd from 4-27-22)**

Docket 249

**Tentative Ruling:**

Tentative for 6/1/22:

Grant. The court understands that a deal was reached with Ms. Raab. That can be included as a part of the order pending verification that the funds now going to Ms. Raab will be taken from the other estate professionals/administrative claimants on a *pro rata* basis.

Appearance: Required

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Tentative for 4/27/22:

The Trustee has filed a supplemental brief on the asserted domestic support obligation claim in the amount of \$60,000 brought by Ms. Jennifer Raab who objected to the motion at the last hearing. In the supplemental brief, Trustee argues that Ms. Raab is not entitled to a domestic support claim. On March 17, 2022, Ms. Raab telephoned Ashley Teesdale, counsel to the Trustee. Ms. Raab advised Ms. Teesdale, via phone and in subsequent emails, that Ms. Raab and the Debtor have a written and notarized agreement that Mr. Fox would pay Ms. Raab \$1,000 per month for the support of their son. Although Ms. Teesdale requested copies of this agreement several times, Ms. Raab did not provide a copy of any such agreement to the Trustee until after the hearing on the Motion.

The day before the hearing on the Motion, on March 22, 2022, as Dk. No 255, Ms. Raab filed a document titled Appearance of Child Support

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**Bradley Ray Fox**

**Chapter 11**

Creditor or Representative (“DSO Appearance”). Attached to the DSO Appearance is a document related to the Family Court Case titled Child Support Case Registry Form which appears to be executed by Ms. Raab. The Child Support Case Registry Form indicates that an order for support was entered on March 22, 2022, the day before the hearing, ordering base child support owed by the Debtor in the amount of \$1,000 per month and past due support owing in the amount of \$60,000. On the day of the March 23 hearing, the Trustee received service of a Judgment entered in the Family Court Case on March 22, 2022. The Judgment indicates that it is “Default or uncontested,” and orders the Debtor to pay child support of \$1,000 per month beginning on February 1, 2017, payable on the first of each month. The Judgment indicates that the Court relied on the following income for the Debtor in determining the amount of child support: \$5,000 net monthly income and \$6,000 gross monthly income. The Judgment also states that “[The Debtor] stipulates and agrees that he owes child support arrears to Petitioner in the amount of \$60,000.” It appears that in the days before the hearing on the Motion, the Debtor prepared a Response to Petition to Determine Parental Relationship (“Parental Response”) and a Responsive Declaration to Request for Order in the Family Court Case (“Fox Declaration”) which enabled the “uncontested” Judgment to be entered.

The Bankruptcy Code sets forth a basic system of priority that dictates the order in which a trustee must distribute the assets of the estate. See §§ 507 725, 726; *Czyzewski v. Jevic Holding Corp.*, 137 S. Ct. 973, 979 (2017). A Bankruptcy Court may order distributions in connection with the dismissal of a chapter 11 case, as the Trustee seeks to do here, provided those distributions do not deviate from these basic priority rules set forth in the Bankruptcy Code. *Jevic*, 137 S. Ct. at 978.

But Trustee argues that the claim asserted by Ms. Raab is not entitled to payment as a priority domestic support obligation under section 507(a)(1) (A). First, Trustee argues, the entire claim is not entitled to priority payment in this bankruptcy case because the debt was not established by an order of a court of record *before the Petition Date*. Second, Trustee argues that even if the Judgment entered post-petition could create a pre-petition obligation entitled to priority under 507, only the portions of the claim attributable to pre-petition time periods are entitled to payment from the bankruptcy estate;



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**Bradley Ray Fox**

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under section 502(b)(5), amounts that accrued post-petition must be disallowed. Next, Trustee asserts, even if a pre-petition domestic support obligation could be created by an order entered post-petition, equity demands that the claim be denied here. Furthermore, Trustee argues, there is no evidence whatsoever that on the Petition Date, Ms. Raab's claim was "established or subject to establishment . . . by applicable provisions . . . of an order of a court of record" under 11 U.S.C. section 101(14A)(C)(ii). Moreover, Trustee asserts, the purported Judgment ordering support payments was entered more than two years after the Petition Date and the day before the hearing on the Motion to Dismiss. Trustee points out that there also was no pending state court action on or before the Petition Date; on the Petition Date, there was not even a court of record to enter an order for child support dating back to 2017. Finally, Trustee asserts, there is no evidence of any other order of a court of record, qualifying agreement, or determination of a governmental unit that established the debt owed to Ms. Raab before the Petition Date. To the extent that the Judgment creates a valid domestic support obligation against the Debtor, Trustee concludes, it was entirely unmatured on the Petition Date, and, therefore, not allowable under 11 U.S.C. section 502(b)(5). Ms. Raab's problem is that priority claims are ones as defined in the statute (507(a)(1) but those speak in the present tense "as of the date of the filing of the petition", not ones that might have come into being after the estate was created.

Regarding the equity argument, Trustee points out that the judgment obtained by Ms. Raab was done with extensive cooperation of Debtor, but Debtor did not have authority to bind the estate. Trustee was not even aware that the family court action was occurring, which, Trustee argues, is a denial of due process. Ms. Raab was not listed as an estate creditor holding a DSO claim or any other. Finally, the family court judgment indicates that Debtor has a net monthly income of \$5,000, which is a much different number than what was provided in his bankruptcy schedules, in which he indicated that he did not have regular monthly income. Trustee argues that Debtor should not be allowed to make wildly inconsistent sworn statements to different courts to create a last-minute priority obligation that would provide for the payment of an otherwise nondischargeable claim owed to a previously unmentioned domestic support creditor at the expense of other creditors of the Estate.

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Conclusion: Ms. Raab's claim is not entitled to priority payment in this bankruptcy case because her support claim was unmatured on the Petition Date. To the extent that any portion of her claim is payable as a pre-petition debt, such amounts still are not entitled to priority payment because her claim did not satisfy the definition of a support obligation on the Petition Date. The amounts attributable to pre-petition periods would, at best, be entitled to payment as a general unsecured claim. As there are not enough funds to pay general unsecured claims, thus Ms. Raab's alleged claim is not entitled to payment.

*Grant trustee's motion, overrule Ms. Raab's objection.*

Appearance: required

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Tentative for 3/23/22:

Grant. Appearance: optional

<b>Party Information</b>
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**Debtor(s):**

Bradley Ray Fox

Pro Se

**Trustee(s):**

Thomas H Casey (TR)

Represented By  
Todd C. Ringstad  
Ashley M Teesdale

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**8:21-12507 DCM-P3, LLC**

**Chapter 11**

**#4.00** Debtor's Motion To: (1) Approve Sale of Real Property Free and Clear of All Liens, Interests, Claims and Encumbrances with Such Liens, Interests, Claims, and Encumbrances to Attach to Proceeds Pursuant to 11 U.S.C. §§ 363(b) and (f); (2) Approve Overbid Procedures; (3) Determine That Buyer is Entitled to Protection Pursuant to 11 U.S.C. § 363(m); and (4) Provide Related Relief

Docket 88

**Tentative Ruling:**

Tentative for 6/1/22:

This is debtor DCM-P3, LLC's ("Debtor") motion to: (1) Approve sale of real property free and clear of all liens, interests, claims and encumbrances with such liens, interests, claims, and encumbrances to attach to proceeds pursuant to 11 U.S.C. §§ 363(b) and (f); (2) Approve overbid procedures; (3) determine that buyer is entitled to protection pursuant to 11 U.S.C. § 363(m); and (4) Provide related relief. The motion is opposed by creditors Verde Investments, Inc. ("Verde"), GF Capital and Albert Lissoy. Senior secured creditor Axos Bank ("Axos") filed a separate response to the motion.

**1. Background**

On October 14, 2021 (the "Petition Date"), the Debtor and affiliated debtor Sarina Browndorf ("Ms. Browndorf" and collectively with DCM-P3, the "Debtors") each filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code. Ms. Browndorf's bankruptcy case is pending before this Court as Bankr. Case No. 8:21-bk-12506-TA. DCM-P3 is a community property entity of Ms. Browndorf and her estranged non-debtor husband, Matthew Browndorf ("Mr. Browndorf"). The Debtor manages its financial affairs pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or committee has been appointed in either of the Debtors' chapter 11 cases. Debtor is a Delaware entity that was formed in 2015 to hold title to the Property. The Debtor is a disregarded entity for tax purposes, and it does not have any income. The Debtor did not have any bank accounts prepetition, and to the best of Ms. Browndorf's knowledge, the Browndorfs paid the Debtor's obligations, including expenses related to the Property.

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Prepetition, on June 16, 2021, Ms. Browndorf filed a dissolution of marriage petition in the Superior Court of the State of California, County of Orange, commencing Case No. 21D003789 (the “Dissolution Action”), which is currently pending and is active and contentious. As of the Petition Date, the family court had not divided assets and liabilities between Browndorfs.

Shortly after the filing of the Dissolution Action, Mr. Browndorf filed an ex parte application with the family court and obtained a temporary restraining order prohibiting Ms. Browndorf from entering the Property, and temporarily giving him full custody of their minor child. Ms. Browndorf successfully opposed the ex parte application and restraining order, which the family court vacated. Thereafter, Ms. Browndorf filed her own motion with the family court seeking a restraining order against Mr. Browndorf. On September 22, 2021, the family court entered a permanent restraining order against Mr. Browndorf for three years. The permanent restraining order also gave Ms. Browndorf sole use of the Property. On October 19, 2021, the family court entered an order granting Ms. Browndorf exclusive management and control of DCM-P3.

At all times during the Browndorf’s marriage, Mr. Browndorf was in control of the Browndorfs’ finances. Pre-petition, Mr. Browndorf allowed the Property to go into foreclosure, and a foreclosure sale was scheduled for October 18, 2021. However, the Debtors’ bankruptcy filings stayed the sale. While Ms. Browndorf placed the Debtor into bankruptcy, Mr. Browndorf has allegedly refused to turn over most books and records or information regarding management of the entity and regarding his communications with the lienholders on the Property. Despite this fact, Ms. Browndorf asserts that she has received sufficient information to contest multiple purported liens against the Property.

There is only one “purchase money mortgage” on the Property, and that was in the approximate amount of \$2,800,000 as of the Petition Date as shown in the Debtor’s schedules. Mr. Browndorf has allegedly voluntarily encumbered the Property with millions of dollars of disputed liens – even though the borrower(s) under the respective promissory notes are other community property entities and, Debtor argues, there is no evidence that the Debtor ever received any benefit from these encumbrances. For example,

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Debtor asserts, community property entity Distressed Capital Management, LLC ("DCM") is the borrower under a loan agreement (the "Verde Note") in favor of Verde and community property entity DCM-P1, LLC ("DCM-P1") is another guarantor; therefore, Debtor argues, they are equally liable for payment of amounts due and owing under the Verde Note.

On January 10, 2022, Verde filed its Motion for Relief from the Automatic Stay Under 11 U.S.C. § 362 (Real Property) seeking relief from the automatic stay to pursue its rights under state law as to the Property pursuant to Sections 362(d)(1) and (d)(2) of the Bankruptcy Code. On April 13, 2022, the Court granted the RFS Motion with the relief provided for in the order taking effect on June 6, 2022.

The property was extensively marketed. On March 23, 2022, the Buyer offered to purchase the Property for \$5,500,000. On March 30, 2022, the Debtor submitted a counteroffer to Buyer in the amount of \$5,900,000, which was accepted by Buyer. On or around April 5, 2022, the Debtor accepted an offer for \$6,000,000 from a different potential buyer, however, the potential buyer declined to proceed with the sale during the due diligence period. After the sale to the first buyer fell through, on April 20, 2022, the Debtor accepted the Buyer's offer for \$5,900,000, which was the best and highest offer for the Property at the time. Subsequently, after the Buyer conducted its due diligence, the parties agreed to a reduction of the sale price to \$5,700,000 based on certain costs of deferred maintenance on the Property.

The proposed distributions for sale proceeds are contemplated as follows:

1. Unpaid real property taxes due for the 2021-2022 tax years in the approximate amount of \$28,801.29;

2. A deed of trust in favor of Mortgages Electronic Registrations Systems, Inc., as beneficiary, as nominee for BOFI Federal Bank, in the principal amount of \$2,795,000, recorded on June 26, 2015, which was subsequently assigned to Axos Bank by assignment recorded on July 9, 2020 (the "First Trust Deed").

3. A deed of trust in favor of Michael K. Boone Living Trust and Nancy

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D. Nashu Living Trust in the amount of \$850,000, recorded on August 8, 2016, which was subsequently assigned to GF Capital Group by assignment recorded on October 24, 2019 (the "GF Capital Trust Deed").

4. A deed of trust in favor of Verde in the amount of \$2,400,000 recorded on November 7, 2016 (the "Verde Trust Deed").

5. A deed of trust in favor of Albert Lissoy in the amount of \$2,255,287 recorded on November 8, 2019 (the "Lissoy Trust Deed").

**2. Legal Standards**

Section 363(b) provides that after notice and a hearing, a trustee may sell property of the estate out of the ordinary course of business. Courts have held that in order to approve a sale, a court must find that the trustee demonstrates a valid business justification, and that the sale is in the best interest of the estate. *In re 240 North Brand Partners, Ltd.*, 200 B.R. 653 (9th Cir. BAP 1996); *In re Wilde Horse Enterprises, Inc.*, 136 B.R. 830, 841-42 (Bankr. C.D. Cal. 1991). A sale is in the best interest of the estate when it is fair and reasonable, it has been given adequate marketing, it has been advertised and negotiated in good faith, the purchaser is proceeding in good faith, and it is an arm's length transaction. *Wilde Horse Enterprises*, 136 B.R. at 841. The *Wilde Horse* court goes on to explain that good faith encompasses fair value and further speaks to the integrity of the transaction. Bad faith would include collusion between the seller and buyer or any attempt to take unfair advantage of any potential purchasers. *Id.* at 842. The opponents do not raise any serious question about the good faith of the transaction, but more to the question of whether liens are in "bona fide dispute" within the meaning of §363(f)(4).

**3. Should The Sale Be Approved Under §363(f?)**

As noted, the motion faces significant opposition. The senior secured creditor, Axos, will apparently be paid in full from proceeds of the sale, but the other secured creditors may not. Verde, a secured creditor with a third position claim argues that the sale provides no benefit to anyone except Sarina Browndorf (who has apparently been living at the Property rent free during this bankruptcy), and the estate's professionals. Furthermore, Verde

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argues that there is no actual basis for disputing Verde's lien on the Property and the adversary proceeding purporting to dispute the lien is merely a pretext to support the sale motion under §363(f)(4). Next, Verde argues that it is undisputed that the Debtor served as a guarantor of the loan made by Verde to Debtor's affiliate, Distressed Capital Management, LLC ("Borrower"), and it is well-settled that property pledged by a guarantor and encumbered to secure repayment of another is valid and enforceable (assuming the underlying obligation is legitimate). Debtor's claim that Verde's lien is "fraudulent" is not supported by law or fact. Specifically, Verde argues that the loan transaction of which Debtor complains would require this Court to review and second guess the orders of two other Federal Courts. In particular, the loan transaction was allegedly entered into pursuant to a FRBP 9019 order entered by the United States Bankruptcy Court for the District of Arizona, wherein that Court approved the very Loan Documents that Debtor now challenges, and specifically found that the parties "negotiated and entered into the Settlement Agreement ... in good faith, and it was the product of arms' length, non-collusive negotiations." Moreover, Verde argues, the United States District Court for the District of Arizona has likewise entered judgment against Sarina Browndorf on the very Loan Documents that Ms. Browndorf now contests in this court. Therefore, Verde argues, there is no bona fide dispute as to the validity or the enforceability of the Loan Documents. Verde also argues that the request to extend the RFS Order should be denied because (i) a Notice of Sale has not been recorded and, therefore, a foreclosure sale cannot proceed before the scheduled closing date; (ii) the Court has already granted relief from stay pursuant to Code sections 362(d) (1) and (d)(2), and Debtor has not demonstrated cause for an alternation of that Order; and (iii) delaying the effectiveness of the RFS Order does not benefit the Debtor or the estate; to the contrary, it only benefits Ms. Browndorf. Finally, Verde argues, if the sale is approved over Verde's opposition, Verde is entitled to adequate protection payments.

Creditors GF Capital and Lissoy opposed the motion on several similar grounds. These creditors argue that the bankruptcy was only filed to stave off a foreclosure by GF Capital and no one but Sarina Browndorf has benefitted by the "bad faith" filing. GF Capital raises concerns that Debtor's counsel might have a conflict as counsel represents both the owner of the Property (Debtor) and the occupant (Sarina) who has been living at the Property rent



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free while no payments have been made to any secured creditors. GF Capital and Lissoy also note that Debtor was supposed to have filed a plan and disclosure statement by March 30, 2022, but that has not occurred. Like Verde, GF Capital and Lissoy assert that the adversary proceedings purporting to dispute the secured liens are merely pretext for the sale motion, but GF Capital and Lissoy argue that no one is presently discharging the duties of care owed to creditors like GF Capital and Lissoy. Finally, GF Capital and Lissoy argue that none of the applicable subsections in §363(f) apply here. These creditors do not consent to the sale, the Property is massively over encumbered and the proposed sale price would not cover payment to junior secured lienholders, and as discussed above, the liens of junior creditors are not in bona fide dispute. Thus, these creditors argue, the motion should be denied.

**4. What to Do?**

These are certainly troubling allegations and aspects that the court does not view lightly. The timing of the adversary proceedings is certainly suspicious, but the merits of those adversary proceedings are not currently before the court. It seems beyond doubt that the sale will not generate sufficient funds to pay all secured creditors, which would obviously leave nothing for unsecured creditors unless the junior secured liens are invalidated or substantially reduced. But in order for that to happen, Debtor would have to either prevail in the adversary proceedings or obtain a favorable settlement. But the Code does not seem to require that a disputed lien be removed via judgment, before a sale, only that the court find the dispute to be bona fide. The court does not know what Debtor's realistic prospects are for such outcomes. What also appears undisputed is that the primary beneficiary of both the bankruptcy filing and the proposed sale will be Sarina Browndorf, who is also a chapter 11 debtor herself, and it is not clear what, if anything, remains to be done in this case after sale of the primary if not sole asset. That in turn may be a function as to how viable the adversary proceedings turn out to be. The court is also troubled to hear that during the pendency of this case, secured creditors have not been paid, and so Ms. Browndorf has been effectively occupying a multi-million dollar mansion for months rent- free. The court is also not happy that no plan is on file in this case (something was filed in the Browndorf case?) despite a deadline and any prospects in this case seem very distant on this record. The court notes that a motion to extend the



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deadline to file a plan is on calendar for June 22.

5. Continue?

The court notes that Verde (joined by GF Capital and Lissoy) filed a motion to dismiss the adversary proceedings filed by Debtor. The motion to dismiss is on calendar for June 8, just a week after this motion is set for hearing. As the court reads it, this sale motion is heavily dependent on a finding that the junior creditors' secured liens are in bona fide dispute, but on this very thin record the court is unable to judge the bona fides of these disputes. Debtor and Ms. Browndorf argue that it is unclear that debtor got any value at all in return for massive encumbrance of its sole asset. But does that suffice to dispute a loan guaranteed by Debtor and an encumbrance agreed to lawfully? What effect or weight should be given to the reported review of the transaction(s) by another court? Those questions seem very unclear. If the motion to dismiss is successful, that could open the door for the other consequences as well. On the other hand, if the motion to dismiss fails, depending on how developed is the record, that could be enough to find that disputes are indeed bona fide. The sale itself at \$5.7 million does not seem out of line or lacking in adequate marketing, and the price seems within the range of reasonable. But on this record the court is left unconvinced on the predicates of a sale free of liens under §363(f)(4), but that could change once the motions to dismiss are heard and that record considered. On the question of adequate protection raised by the junior lienholders, the only thing that needs protection is the secured portion of a claim, which under these numbers seems to be a lot smaller than the full amount, and depending on who is asking, maybe zero.

Continue to June 14 @ 10:00 a.m.

Appearance: required

<b>Party Information</b>
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**Debtor(s):**

DCM-P3, LLC

Represented By  
Susan K Seftin  
Steven T Gubner  
Jessica L Bagdanov